

ENTERED

September 08, 2020

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**ELIAS GAITAN,
Petitioner,

v.

LORIE DAVIS, Director, Texas
Department of Criminal Justice Correctional
Institutions Division,
Respondent.§
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Civil Action No. 1:19-cv-00056

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Before the Court is the "Magistrate Judge's Report and Recommendation" ("R&R") (Docket No. 73). The R&R recommended the following: (1) grant Lorie Davis' ("Respondent") "Motion for Summary Judgment with Brief in Support" ("Motion") (Docket No. 70); (2) dismiss the case with prejudice; (3) decline to issue a certificate of appealability; and (4) close this case.

Objections were due September 4, 2020. No objections were filed by either party. A "clearly erroneous, abuse of discretion and contrary to law" standard of review is appropriate when there has been no objection to the magistrate's ruling. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Finding no clear error, abuse of discretion, or finding contrary to law, the R&R is **ADOPTED**.

As a result, Respondent's Motion (Docket No. 70) is **GRANTED** and Elias Gaitan's cause of action is **DISMISSED WITH PREJUDICE**. The Court **DECLINES** to issue a certificate of appealability. The District Clerk's Office is **ORDERED** to close this case.

Signed on this 8th day of September, 2020.


Rolando Olvera
United States District Judge